

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

LARRY DEWAYNE CROSIER,

Plaintiff,

V.

**SUPERINTENDENT GEORGERY
WINSTON, ET AL.,**

Defendants.

Case No. 7:20CV00007

OPINION

By: James P. Jones
United States District Judge

Larry DeWayne Crosier, Pro Se Plaintiff.

The plaintiff, Larry DeWayne Crosier, proceeding pro se, filed this civil rights action pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights while incarcerated. He later notified the court that he had been released, and he was thereafter granted in forma pauperis status.

On April 3, 2020, the defendants filed a Motion to Dismiss under Rule 12(b)(6) of the Federal Rules of Civil Procedure. At that time, the court mailed a notice advising Crosier that the court would give him twenty-one days to submit any further counter-affidavits or other relevant evidence contradicting, explaining or avoiding the defendant's evidence before ruling on the summary judgment motion. The notice warned Crosier:

If Plaintiff does not respond to Defendant[s'] pleadings, the Court will assume that Plaintiff has lost interest in the case, and/or that Plaintiff agrees with what the Defendant[s] state[] in their responsive pleadings. If Plaintiff wishes to continue with the case, it is necessary that Plaintiff respond in an appropriate fashion. . . . However, if Plaintiff does not file some response within the twenty-one (21) day period, the Court may dismiss the case for failure to prosecute.

See Notice, ECF No. 51 (emphasis in original).

The time allotted for Crosier to respond to the defendants' motion has passed, and he has failed to comply with the described conditions. Accordingly, the court will dismiss the action without prejudice.

An appropriate Order will issue herewith.

DATED: May 28, 2020

/s/ James P. Jones

United States District Judge